



JUICIOS CON JURADO



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The Information Resource
Center
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"I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution."

Thomas Jefferson

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1. Introduction

El Centro de Recursos Informativos o *Information Resource Center* (IRC) de la embajada de los Estados Unidos de América en España ha preparado este dossier, el cual incluye:

- Una introducción a los juicios con jurado en los Estados Unidos utilizando algunos párrafos tomados de la *West's Encyclopedia of American Law*, and *The Federal Court System in the United States*, una publicación oficial de los tribunales norteamericanos.
- Una bibliografía selecta sobre los juicios con jurado.
- Una lista comentada de páginas web sobre el asunto.

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1. Introduction to Jury Trials in the U. S.

Excerpts from *West's Encyclopedia of American Law*. Volume 6. 1998 and
The Federal Court System in the United States. Administrative Office
of the U.S. Courts. 2001. <http://www.uscourts.gov/faq.html>

Perhaps the most important way individual citizens become involved in the federal judicial process is by serving as jurors. There are two types of juries serving distinct functions in the federal trial courts: trial juries (also known as petit juries), and grand juries. In a civil case, the role of the jury is to listen to the evidence presented at a trial, to decide whether the defendant injured the plaintiff or otherwise failed to fulfill a legal duty to the plaintiff, and to determine what the compensation or penalty should be. Criminal juries decide whether the defendant committed the crime as charged. A judge usually sets the sentence. Verdicts in both civil and criminal cases must be unanimous, although the parties in a civil case may agree to a non-unanimous verdict. A jury's deliberations are conducted in private, out of sight and hearing of the judge, litigants, witnesses, and others in the courtroom.

The United States attorney, the prosecutor in federal criminal cases, presents evidence to the grand jury for them to determine whether there is "probable cause" to believe that an individual has committed a crime and should be put on trial. If the grand jury decides there is enough evidence, it will issue an indictment against the defendant. Grand jury proceedings are not open for public observation.

Jurors perform a vital role in the American system of justice. Jury service is an important civic function that supports one of the fundamental rights of citizens--the right to have their cases decided by a jury of their peers.

HISTORY

The historical roots of the jury date back to the eighth century. Long before becoming an impartial body, during the reign of Charlemagne juries interrogated prisoners. In the twelfth century, the Normans brought the jury to England, where its accusatory function remained: citizens acting as jurors were to come forward as witnesses and give evidence before the monarch's judges. Not until the fourteenth century did jurors cease to be witnesses and begin to assume their modern role as triers of fact. The role was well established in British common law when settlers brought the tradition to America, and after the United States declared its independence, all state constitutions guaranteed the right of jury Trial in criminal cases.

Viewing the jury as a central to the rights of the new nation, the Founders firmly established its role in the U.S. Constitution. They saw the jury as not only a benefit to the accused but also a check on the judiciary, much as Congress exists as a check on the executive branch. The modern jury is largely a result of decisions of the U.S. Supreme Court, which has shaped and sometimes extended these Constitutional rights.

JURY SELECTION

Jury selection is the process of choosing Jurors. Federal courts select grand and petit juries according to the guidelines in the Jury Selection and Service Act of 1968 (28 U.S.C.A. §§ 1861-78 [1988 & Supp, V 1993J).

Potential jurors are selected from any source that will yield a representative sample of the population at large. The Supreme Court has held that the Sixth Amendment merely requires that jurors be selected from a list that does not exclude any identifiable segment of the community. Most often jurors are chosen from a jury pool generated by random selection of citizens' names from lists of registered voters, or combined lists of voters and people with drivers licenses, in the judicial district. The potential jurors complete questionnaires to help determine whether they are

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qualified to serve on a jury. After reviewing the questionnaires, the court randomly selects individuals to be summoned to appear for jury duty. These selection methods help ensure that jurors represent a cross section of the community, without regard to race, gender, national origin, age or political affiliation.

The Jury Act, which is set out at Title 28, U.S. Code, Sections 1861-1878, calls for random selection of citizens' names from voters lists or combined voters and drivers lists.

The act states that individuals are legally disqualified from service:

- If they are not a citizen of the United States 18 years old, who has resided for a period of one year within the judicial district;
- If they are unable to read, write, and understand the English language with a degree of proficiency necessary to fill out a qualification form;
- If they are unable to speak the English language;
- If they are incapable by reason of mental or physical infirmity to render jury service; or
- If they have felony charges pending against them or they have been convicted of a felony and their civil rights have not been restored.

In addition, the Jury Act lists three groups that are exempt from federal jury service: (Persons belonging to these groups may not serve on federal juries, even if they so desire)

- Members of the armed forces on active duty;
- Members of professional fire and police departments;
- "Public officers" of federal, state or local governments, who are actively engaged in the performance of public duties.

When a jury is needed for a trial, the group of qualified jurors is taken to the courtroom where the trial will take place. The judge and the attorneys then ask the potential jurors questions to determine their suitability to serve on the jury, a process called voir dire. The purpose of voir dire is to exclude from the jury people who may not be able to decide the case fairly. Members of the panel who know any person involved in the case, who have information about the case, or who may have strong prejudices about the people or issues involved in the case, typically will be excused by the judge. The attorneys also may exclude a certain number of jurors without giving a reason.

In addition, many courts offer excuses from service, on individual request, to designated groups of persons or occupational classes. Such groups may include persons over age 70; persons who have, within the past two years, served on a federal jury; and persons who serve as volunteer fire fighters or members of a rescue squad or ambulance crew.

JURY COMMISSION

A group of officials charged with the responsibility of choosing the names of prospective Jury members or of selecting the list of jurors for a particular term in court.

The provisions governing these officers vary greatly from one state to another. In certain states, they are elected, and in others, they are appointed by the governor or by judges. Commissioners may be regarded as officers of the state or country or of the court of which they serve. In choosing the names to compose the jury list, the commissioners have the power to decide those who are fit to serve as jurors or whether particular individuals possess the qualifications set forth by the statutes. The list, however, must be selected without discrimination from all those qualified to serve as jurors.

JURY SIZE

Juries range in size according to their nature. A grand jury, which normally consists of 16 to 23 members, has a more specialized function. A civil trial jury or petit jury typically consists of 6 to 12 persons. A criminal trial jury is usually made up of 12 members. Parties in federal district courts as well as in many state courts can stipulate that the jury size be any number between six and twelve. Commonly, federal district court juries consist of six persons for civil cases.

JURY INSTRUCTIONS

Throughout a trial, the jury receives instructions from the judge. The judge explains relevant points of law, which the jury is bound to accept and apply. The judge directs the jury to disregard inadmissible testimony and provides guidelines on how to behave outside of court. During the 1995 trial of O.J. Simpson for the murder of his estranged second wife and a friend of hers, for example judge Lance Ito issued daily orders to jurors not to discuss the case with anyone. Some instructions vary across jurisdictions and according to judges, such as whether jurors will be allowed to take notes during the trial; generally, they may not. In certain highly publicized trials, the judge may sequester the jury—that is, isolate its members in private living quarters such as hotel rooms in order to shield them from trial publicity. Violating the judge's orders can result in a juror being dismissed from the trial in favor of an alternate juror.

JURY VERDICT

Following the closing arguments in a trial, jurors deliberate in private to arrive at a verdict, which is then reported to the court by the jury foreman or forewoman. Defendants in federal jury trials have the right to a unanimous verdict. This is not true in state jury trials, where the size of the jury determines whether unanimity is required: a twelve-member jury may convict without unanimity, a six-member jury cannot.

JURY COMPENSATION

Jurors receive modest compensation and expenses from the court for their service. In most courts, jurors also are reimbursed for reasonable transportation expenses and parking fees. Being summoned for jury service does not guarantee that an individual actually will serve on a jury.

Your employer may continue your salary during all or part of your jury service, but is not required to do so. Nonetheless, the Jury Act forbids any employer from firing, intimidating, or coercing any permanent employee because of their federal jury service.

The Jury Act allows courts to permanently excuse a juror from service at the time he or she is summoned on the grounds of "undue hardship or extreme inconvenience" if the distance to the courthouse makes it difficult for the juror to travel. The juror should write a letter to the chief judge of the court requesting an excuse with an explanation of hardship. As with temporary deferrals, whether to grant an excuse is a matter of discretion for the court and cannot be reviewed or appealed to Congress or any other entity.

The Jury Act allows courts to grant temporary deferrals of service on the grounds of "undue hardship or extreme inconvenience." The qualification questionnaire and juror summons provides specific information on how to request a deferral from your individual court. Whether to grant a deferral is a matter of discretion for the court and cannot be reviewed or appealed to Congress or any other entity.

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3. Annotated Web Sites.

United States Federal Judiciary

<http://www.uscourts.gov>



This site is maintained by the Administrative Office of the U.S. Courts on behalf of the U.S. Courts and offers information from and about the Judicial Branch of the U.S. Government.

Federal Judicial Center

<http://www.fjc.gov/>



This is the research and education agency of the federal judicial system. It was established by Congress in 1967, on the recommendation of the Judicial Conference of the United States. Conducts and promotes orientation and continuing education and training for federal judges, court employees, and others; developing recommendations about the operation and study of the federal courts. It also promotes research on federal judicial procedures, court operations, and history.

National Center for State Courts

<http://www.ncsconline.org/Juries/index.html>



NCSC is an independent, nonprofit, tax-exempt organization. For more than 30 years, court leaders have called on the NCSC for up-to-date information and hands-on assistance that helps them better serve the public. Through original research, consulting services, publications, and national educational programs, NCSC offers solutions that enhance court operations with the latest technology; collects and interprets the latest data on court operations nationwide; and provides information on proven "best practices" for improving court operations in many areas. The National Center for State Courts has played a key role in the development of court administration worldwide. Important National Center initiatives include: Developing the skills of more than 900 court leaders through the Court Executive Development Program of the Institute for Court Management and improving how courts treat jurors through the work of its Center for Jury Studies and the promotion of innovations in jury system management.

National Association for Court Management

<http://www.nacmnet.org/>



NACM is an organization of court management professionals dedicated to the improvement of courts and the development of court managers. NACM has been a leader in advancing the profession.

American College of Trial Lawyers

<http://www.actl.com>



The American College of Trial Lawyers, founded in 1950, is widely considered to be the premier professional organization in America. It is composed of the best of the trial bar from the United States and Canada. Fellowship in the College is by invitation, extended only after careful investigation, to those experienced trial lawyers who have demonstrated exceptional skill as advocates and whose professional careers have been marked by the highest standards of ethical conduct, professionalism and civility.

Association of Trial Lawyers of America

<http://www.atla.org/>



As the world's largest trial bar, ATLA promotes justice and fairness for injured persons, safeguards victims' rights--particularly the right to trial by jury--and strengthens the civil justice system through education and disclosure of information critical to public health and

safety. With more than 56,000 members worldwide, and a network of U.S. and Canadian affiliates involved in diverse areas of trial advocacy, ATLA provides lawyers with the information and professional assistance needed to serve clients successfully and protect the democratic values inherent in the civil justice system.

American Judicature Society

<http://www.ajs.org/>



AJS is a nonpartisan organization interested in the administration of justice, with primary focus on Judicial Independence. News, articles, publications, and links are included on topics of Judicial Conduct and Ethics, Judicial Selection, The Jury, Court Administration, and Public Understanding of the Justice System.

NOTA IMPORTANTE:

Este dossier incluye materiales sujetos a la legislación vigente sobre la propiedad intelectual, ello significa que solo se puede emplear para su uso personal y que no puede ser distribuido públicamente.



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